

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

PATRICK K. MCDONNELL,
and CABBAGETECH, CORP. d/b/a COIN
DROP MARKETS,

Defendants.

Case No. 18-CV-0361 (JBW) (RLM)

**PLAINTIFF COMMODITY FUTURES
TRADING COMMISSION'S
FIRST SET OF INTERROGATORIES
TO DEFENDANT
PATRICK K. MCDONNELL**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and Rule 33.3 of the Local Civil Rules of the United States District Courts for the Eastern District of New York (the "Local Rules"), Plaintiff Commodity Futures Trading Commission (the "Commission"), by and through its undersigned attorneys, hereby requests and demands that Defendant Patrick K. McDonnell ("McDonnell") answer the following interrogatories (the "Interrogatories") under oath, and that each interrogatory be answered fully and separately within the timeframe provided by the Federal Rules of Civil Procedure, or as otherwise ordered by the Court.

DEFINITIONS AND INSTRUCTIONS

The following Definitions and Instructions are expressly incorporated into each specific interrogatory as if fully stated therein. Terms not defined herein shall have the meanings assigned to them, if any, by the definitions and rules of construction set forth in Local Rule 26.3.

DEFINITIONS

1. Account(s). The term “account” or “accounts” refers broadly to all manners of accounts (actual currency, virtual currency, or otherwise), including without limitation commodities futures and options accounts, brokerage accounts, trading accounts, virtual currency “wallets,” exchange accounts, securities accounts, and bank accounts.

2. CabbageTech Corp. Inc. The terms “CabbageTech Corp. Inc.,” “CabbageTech,” and “CDM” mean the entity doing business under the name CabbageTech Corp. Inc., any and all of its affiliates, subsidiaries, parents, directors, officers, divisions, groups, offices, branches, departments, employees, consultants, agents, representatives, accountants, predecessors and/or successors, wherever they may be situated, including but not limited to Coin Drop Markets, and all other persons who have an interest in CabbageTech, its subsidiaries, affiliates, and/or divisions.

3. Commission. The terms “Commission” and “CFTC” refer to the Commodity Futures Trading Commission.

4. Communication. The term “communication” means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

5. Concerning. The term “concerning” means relating to, referring to, describing, evidencing or constituting.

6. Customer. The term “Customer” means any person who was solicited to provide money, virtual currency, or anything else of value to CabbageTech and/or Patrick McDonnell in exchange for advice services, in connection with actual or potential virtual currency transactions, or in exchange for anything else of value.

7. Document. The term “document” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Federal Rule of Civil Procedure 34(a)(1)(A). A draft or non-identical copy is a separate document within the meaning of this term.

8. Including / Includes. The terms “including” or “includes” are used in the broadest sense and specification of a particular matter in a request is not meant to exclude any other documents that might be responsive to a specific interrogatory.

9. Identify (with respect to persons). When referring to a person, “to identify” means to give, to the extent known, the person’s full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

10. Identify (with respect to documents). When referring to documents, “to identify” means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s) and recipient(s). In the alternative, the responding party may produce the documents, together with identifying information sufficient to satisfy Fed. R. Civ. P. 33(d).

11. Parties. The terms “plaintiff” and “defendant” as well as a party’s full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

12. Patrick McDonnell. “Patrick McDonnell” or “McDonnell” refers to Defendant Patrick K. McDonnell and his employees, agents, assigns, attorneys, representatives, partners, predecessors or successors.

13. Person. The term “person” is defined as any natural person or any legal entity, including, without limitation, any business or governmental entity or association.

14. Virtual currency. The term “virtual currency” means any digital representation of value that can be used as a medium of exchange, unit of account, and/or store of value. The term includes but is not limited to cryptocurrencies such as Bitcoin, Litecoin, Ether, Ripple, Bitcoin Cash, Ethereum Classic, Dash, Cardano, Monero, and Dogecoin.

15. You / Your. The terms “You” or “Your” refer to the person to whom this document is addressed.

16. The following rules of construction shall apply to these Interrogatories:

i. All / Any / Each. The terms “all,” “any,” and “each” shall each be construed as encompassing any and all;

ii. And / Or. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope;

iii. Number. The use of the singular form of any word includes the plural and vice versa.

INSTRUCTIONS

1. The discovery requested herein, unless otherwise specified, covers the time period January 1, 2016, through the present. To the extent that any answer varies with respect to any part of that period, a separate answer is required for each part, with the pertinent dates indicated.

2. You are required to obtain and furnish all information that is in Your possession, custody, or control, including any information that You have the legal right, authority or practical ability to request and obtain in the ordinary course of Your business.

3. Each Interrogatory should be answered separately. Interrogatories should not be combined for the purpose of supplying a common answer, and answers should not be supplied by reference to another Interrogatory, unless the answer is identical to the answer to which it refers. When an Interrogatory has several parts, answer each part separately.

4. If You object to responding to an Interrogatory or any portion thereof, specify the precise ground of the objection.

5. If any Interrogatory is answered by reference to a document, identify the document by Bates number or other means. Accordingly, if you choose to refer to a document in your answer, you can either produce that document along with your answer or alternatively, if that document has already been produced, then you need to provide a means to the Commission to identify the document you have referenced in your answer.

6. If any of the Interrogatories cannot be answered fully or completely, answer to the extent possible, specifying the reason for the inability to answer the remainder. Any approximated or estimated data must be designated as such and the bases, source or sources and/or derivation of each approximation or estimate should be set forth in connection therewith.

If You are unable to provide a full or complete answer to any Interrogatory but believe that other persons may be able to provide additional information responsive to the interrogatory, Your answer shall identify each such person.

7. If You object to responding to an Interrogatory or any portion thereof on the basis of any claim of privilege, provide the information required by Local Rule 26.2.

* * *

INTERROGATORIES

Interrogatory No. 1. Identify all persons with knowledge of any information McDonnell has used or may use to support defenses of the Commission's claims.

Interrogatory No. 2. Identify all documents concerning any information McDonnell has used or may use to support defenses of the Commission's claims.

Interrogatory No. 3. Identify all persons with knowledge of customers and potential customers of CDM and/or McDonnell.

Interrogatory No. 4. Identify all documents concerning customers and potential customers of CDM and/or McDonnell.

Interrogatory No. 5. Identify all persons with knowledge of CDM solicitation materials developed, used by, or in the possession, custody, or control of CDM and/or McDonnell.

Interrogatory No. 6. Identify all documents concerning CDM solicitation materials developed, used by, or in the possession, custody, or control of CDM and/or McDonnell.

Interrogatory No. 7. Identify all persons with knowledge of trading conducted by or under the authority of McDonnell and/or CDM, including but not limited to accounts opened at futures commission merchants, virtual currency exchanges, or any other trading firm or service facilitating the trading of virtual currency.

Interrogatory No. 8. Identify all documents concerning trading conducted by or under the authority of McDonnell and/or CDM, including but not limited to accounts opened at futures commission merchants, virtual currency exchanges, or any other trading firm or service facilitating the trading of virtual currency.

Interrogatory No. 9. Identify all persons with knowledge of CDM's and/or McDonnell's trading track record posted on CDM website(s) or in CDM promotional materials.

Interrogatory No. 10. Identify all documents concerning CDM's and/or McDonnell's trading track record posted on CDM website(s) or in CDM promotional materials.

Interrogatory No. 11. Identify all persons with knowledge of accounts under the name of or under the control of McDonnell and/or CDM.

Interrogatory No. 12. Identify all documents concerning accounts under the name of or under the control of McDonnell and/or CDM.

Interrogatory No. 13. Identify all virtual currency addresses and transaction IDs relating to McDonnell and/or CDM.

* * *

Dated: April 23, 2018

**COMMODITY FUTURES TRADING
COMMISSION**

By: s/ Gates S. Hurand

Gates S. Hurand
Senior Trial Attorney
ghurand@cftc.gov
Phone: (646) 746-9700

Commodity Futures Trading Commission
Division of Enforcement
140 Broadway, 19th Floor
New York, NY 10005
Phone: (646) 746-9700
Fax: (646) 746-9940

**ATTORNEYS FOR PLAINTIFF
COMMODITY FUTURES TRADING
COMMISSION**